

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on May 2, 2017 at Kyle City Hall with the following persons present:

Mayor Todd Webster  
Mayor Pro Tem Damon Fogley  
Council Member Travis Mitchell  
Council Member Shane Arabie  
Council Member David Wilson  
Scott Sellers, City Manager  
James Earp, Assistant City Manager  
Frank Garza, City Attorney  
Hanna Malott, KAYAC  
Alex Moore, KAYAC  
Aiden O'Keeffe, KAYAC  
Meghan Murphy, KAYAC  
Gabriel Barrientos, KAYAC  
Anna Holsonbake, KAYAC  
Benjamin White, KAYAC  
Destinee Cabrera, KAYAC  
Zakya Jarden, KAYAC  
Lila Ramos, KAYAC  
Emmanuel Zygmunt, KAYAC  
Jerry Hendrix, Chief of Staff  
Jennifer Vetrano, City Secretary  
Leon Barba, City Engineer  
Kathy Roecker, SWMP Administrator  
Perwez Moheet, Finance Director  
Marco Forti, IT Technician  
Howard Koontz, Community Dev Director  
Jeff Barnett, Chief of Police  
Pedro Hernandez, Police Captain  
Briana Brecher, Animal Control Officer  
Harper Wilder, Director of Public Works  
Jason Biemer, Div. Mgr. – Treatment Operations

Lori Huey  
Marcos De La Mona  
Arturo Guerra  
Kyle Taylor

### I. Call Meeting To Order

Mayor Webster called the meeting to order at 7:05 p.m. Mayor Webster asked the secretary to call roll.

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Present were Mayor Webster, Council Member Mitchell, Council Member Arabie, Council Member Wilson, and Mayor Pro Tem Fogley. Council Member Tenorio was absent due to a medical emergency. Council Member Selbera was absent. A quorum was present.

Mayor Webster moved to excuse Council Member Tenorio's absence. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

### II. Approval of minutes

1. City Council Regular Meeting Minutes - April 18, 2017. ~ *Jennifer Vetrano, City Secretary*  
Item No. 1 Attachments

Mayor Webster brought forward Item No. 1.

Council Member Wilson moved to approve the City Council Regular Meeting Minutes for April 18, 2017. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

III. Citizen Comment Period with City Council. The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak are encouraged to sign in before the meeting begins. Speakers may be provided with an opportunity to speak during this time period on any agenda item or any other matter concerning city business, and they must observe the three-minute time limit.

Mayor Webster opened citizen comments at 7:07 p.m.

Lori Huey representing Kensington Trails was called to speak. She has lived in Kyle for 13 years and spoke about a speeding issue on Downing. Ms. Huey spoke about the proximity to the pool and stated that it is a long stretch of road with no stop signs. She would like a warning sign in hopes of preventing an accident. Mayor Webster spoke about the traffic policy. He stated that Chief Barnett would contact Ms. Huey to get that process started. Ms. Huey also spoke about sidewalks, stating that Plum Creek put in trees near the sidewalks that are pushing the sidewalks up and she stated that many developers put in cheap sidewalks. She stated that residents are upset that the liability is resting on the homeowners. Mayor Webster stated that the City has a law in the books from 1964 assigning this responsibility to the homeowners. He stated that the City is in the research phase at this point and is looking to provide a more affordable option.

With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:14 p.m.

### IV. Presentation

2. Kyle Area Youth Advisory Council's annual presentation and report on sidewalk project. ~ *Howard J. Koontz, Director of Planning and Community Development*  
Item No. 2 Attachments

Mayor Webster brought forward Item No. 2 for discussion. Mr. Koontz introduced Chairman Aiden O'Keeffe and Vice Chair Hanna Malott who presented the item. No action was taken.

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### V. Consent Agenda

Mayor Webster asked if there were any items to be pulled from the Consent Agenda. There were none. With no objections, Mayor Webster brought forward Item Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

3. (Second Reading) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2016-17 (Budget Amendment No. 4) by increasing total appropriations for expenditures in the General Fund by \$100,000.00 and decreasing the fund balance in the General Fund by the same amount in order to provide funding to reimburse Union Pacific Railroad Company for engineering review costs associated with the City's design for the four rail crossing quiet zones to be constructed in Kyle. ~ *Perwez Moheet, Director of Finance*  
Item No. 3 Attachments
4. Approve execution of a continuing disclosure agreement with Guadalupe-Blanco River Authority (GBRA) to provide information updates of reporting events through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System in association with the GBRA Contract Revenue Refunding Bonds, Series 2017. ~ *Perwez A. Moheet, CPA, Director of Finance*  
Item No. 4 Attachments
5. (Second Reading) An Ordinance amending Ordinance 891; Chapter 50 ("Utilities"), Article IX ("Stormwater Regulations") adopted on February 16, 2016 so as to reflect changes shown in Exhibit A; providing for an effective date; and making such other findings and provisions related hereto. ~ *Kathy Roecker, Stormwater Management Plan Administrator*  
Item No. 5 Attachments
6. (Second Reading) An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 3.93 acres of land from Warehouse District 'W' to Retail Service District 'RS' for property located at 400 Windy Hill Road, in Hays County, Texas. (Ansar and Ali Chmeis - Z-17-006). ~ *Howard J. Koontz, Director of Planning and Community Development*  
*Planning and Zoning Commission voted 6-1 to recommend approval of Retail Service District.*  
Item No. 6 Attachments
7. Consider approval of a Resolution of the City of Kyle, Texas, authorizing Amendment Number 1 extending and amending certain provisions of the Development Agreement between the City of Kyle, Texas, and Blanco River Investments, LTD., authorizing the City Manager to execute such amendment. ~ *James R. Earp, Assistant City Manager*  
Item No. 7 Attachments
8. Approve conveyance by Daniel H. Ortuno of a wastewater line easement to the City of Kyle, Hays County, Texas, being more particularly described as a fifteen foot (15') wide permanent wastewater line easement containing 0.11 acres, more or less, out of a 0.338 acre tract of land conveyed to Daniel H. Ortuno as recorded in Volume 3355, page 877, Official Public Records of Hays County, Texas. ~ *Leon Barba, P.E., City Engineer*  
Item No. 8 Attachments

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9. (First Reading) An Ordinance regulating traffic, authorizing and directing the installation and erection of stop signs for traffic control at the intersection of south Nance Street and Miller Street; South Nance Street and West South Street; South Burleson Street and West South Street; and South Main Street and West South Street in the city limits of Kyle.  
~ *Leon Barba, P.E., City Engineer*  
Item No. 9 Attachments
10. Approve Contract Amendment No. 5 with ESPEY CONSULTANTS, INC. dba RPS, Austin, Texas, in an amount not to exceed \$37,416.00, for a total contract amount of \$638,737.00 for the purpose of providing additional professional engineering services for analysis and design changes to the Southside Wastewater Improvements Project. ~ *Leon Barba, P.E., City Engineer*  
Item No. 10 Attachments
11. Approve award of a contract to BURGESS AND NIPLE, INC., Austin, Texas, in an amount of \$18,627.00 for evaluating the impact to the existing wastewater collection system created by projected development. ~ *Leon Barba, P.E., City Engineer*  
Item No. 11 Attachments
12. Authorize appropriation and expenditure of forfeited funds in the amount of \$2,970.05 released to the Kyle Police Department for the purchase of equipment and general supplies for the evidence storage facility. ~ *Jeff Barnett, Chief of Police*  
Item No. 12 Attachments
13. Approve submission of documents related to Texas Community Development Block Grant regarding Sewer Improvement in support of Alsco, Inc. including Fair Housing Month Proclamation; Conflict of Interest Policy; Limited English Proficiency Plan with backup documentation; Self Evaluation Form. ~ *J. Scott Sellers, City Manager*  
Item No. 13 Attachments
14. Approve a Resolution by the City Council of the City of Kyle, Texas, designating authorized signatories for contractual documents and documents for requesting funds pertaining to the Texas Community Development Block Grant Program (TxCDBG) contract number 7216212. ~ *J. Scott Sellers, City Manager*  
Item No. 14 Attachments
15. Authorize award and execution of a Purchase Order to CENTERLINE SUPPLY, LTD, San Antonio, Texas in an amount not to exceed \$61,605.00 for the purchase of one (1) new Dual Thermoplastic Premelter through the Buy Board Purchasing Co- operative for Street Maintenance Division of the Public Works Department. ~ *Harper Wilder, Director of Public Works*  
Item No. 15 Attachments
16. Authorize award and execution of a Purchase Order to SILSBEE FORD/VERSALIFT, Silsbee, Texas in an amount not to exceed \$92,142.50 for the purchase of one (1) new Ford F-450 Bucket Truck for the Street Maintenance Division of the Public Works Department. ~ *Harper Wilder, Director of Public Works*  
Item No. 16 Attachments

Council Member Wilson moved to approve Consent Agenda Item Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. Council Member Mitchell seconded the motion. All votes aye; motion carried 5-0.

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### VI. Consider and Possible Action

17. Public hearing for the purpose of receiving testimony, comments, and written evidence from the public regarding mid-term amendments to the 2010 Comprehensive Plan. ~ *Howard J. Koontz, Director of Planning and Community Development*  
*Planning and Zoning Commission voted 6-0 to postpone recommendation until the May 9th, P&Z meeting.*
- Public Hearing
- Item No. 17 Coversheet

Mayor Webster brought forward Item No. 17 for discussion. Mr. Koontz presented the item.

Mayor Webster went on record regarding the joint workshop with the Planning & Zoning Commission. He stated that he had made a comment regarding including the development agreements as part of the mid-term amendments to the comprehensive plan. Mayor Webster clarified that his comment was not meant as direction to incorporate the pages of the development agreement documents, but rather that the maps be updated to reflect all the recently annexed properties.

Mayor Webster opened the public hearing at 7:57 p.m. With no one wishing to speak, and no objections, Mayor Webster left the public hearing pending at 7:57 p.m.

Council Member Mitchell moved to postpone Item No. 17 until May 16, 2017. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0.

18. Consider approval of a Resolution to provide for the possible extension of the Kyle Municipal Boundaries by the annexation of approximately 119.20 acres which is located west of N. Old Stagecoach Rd in the Blanco River Ranch; and the de- annexation of approximately 242.12 acres which is located west of the intersection of N. Old Stagecoach Rd and W. RR 150 in the Blanco River Ranch; and setting the dates and times of two public hearings for the purpose of annexing and de-annexing property and setting an effective date. ~ *Howard J. Koontz, Director of Planning and Community Development*  
Item No. 18 Attachments

Mayor Webster brought forward Item No. 18 for discussion. Mr. Koontz presented the item.

Council Member Wilson asked whether the past election and/or sales tax will be affected by this annexation/de-annexation. Mr. Koontz stated that the re-annexation is primarily right-of-way, and this is a net loss of annexation area. He stated that the area that will be re-annexed is primarily residential. Assistant City Manager James Earp stated that the boundaries of commercial property is not changing, and the only thing that is changing is the alignment of the road.

Mayor Pro Tem Fogley moved to approve a Resolution to provide for the possible extension of the Kyle Municipal Boundaries by the annexation of approximately 119.20 acres which is located west of N. Old Stagecoach Rd in the Blanco River Ranch; and the de- annexation of

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approximately 242.12 acres which is located west of the intersection of N. Old Stagecoach Rd and W. RR 150 in the Blanco River Ranch; and setting the dates and times of two public hearings for the purpose of annexing and de-annexing property and setting an effective date. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0.

Chief Taylor had not made it to the meeting in order to present Item No. 19. It was a consensus of Council to move forward to the next item.

20. Consider for approval an Agreement with BioDAF Water Technologies to perform a pilot program to assess the efficiency and treatment levels of the BioDAF system on the City's wastewater. ~ *Jason Biemer, Division Manager - Treatment Operations*  
Item No. 20 Attachments

Mayor Webster brought forward Item No. 20 for discussion. Mr. Biemer presented the item.

Marcos De La Mona with BioDAF spoke. He stated that by using high-pressure air filtration system, they are able to clarify the water in three minutes versus the normal approximately 18 hours.

Mayor Pro Tem Fogley moved to approve an Agreement with BioDAF Water Technologies to perform a pilot program to assess the efficiency and treatment levels of the BioDAF system on the City's wastewater. Council Member Wilson seconded the motion. All votes aye; motion carried 5-0.

21. (First Reading) An Ordinance of the City of Kyle, Texas Code of Ordinances amending Chapter 5, Animals, Article I. In General and Article II. General Regulations; providing a repealing clause; providing a savings clause; providing a severability clause; providing for publication; and setting an effective date. ~ *Travis Mitchell, Council Member*  
Item No. 21 Attachments

Mayor Webster brought forward Item No. 21 and gave the floor to Council Member Mitchell who presented the item.

Council Member Mitchell moved to approve an Ordinance of the City of Kyle, Texas Code of Ordinances amending Chapter 5, Animals, Article I. In General and Article II. General Regulations; providing a repealing clause; providing a savings clause; providing a severability clause; providing for publication; and setting an effective date. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

### VII. City Manager's Report

22. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*  
Item No. 22 Coversheet

Mr. Sellers reminded Council of the budget retreat on Saturday at 8:00 a.m.

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### VIII. Executive Session

23. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
    - Seek legal advice regarding Guerra Underground
  2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
  3. Personnel matters pursuant to Section 551.074.
  4. Economic Development negotiations pursuant to Section 551.087.
- Item No. 23 Coversheet

Mayor Webster moved to convene into executive session. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Seek legal advice regarding Guerra Underground. Council Member Wilson seconded the motion. All votes aye; motion carried 5-0.

The City Council convened into executive session at 8:20 p.m.

24. Take action on items discussed in Executive Session.  
Item No. 24 Coversheet

Mayor Pro Tem Fogley moved to reconvene into open session. Council Member Arabie seconded the motion. All votes aye; motion carried 4-0. Council Member Wilson was absent for the vote.

The City Council reconvened into open session at 8:42 p.m. Mayor Webster announced that no action took place in Executive Session but action would be taken now. Council Member Wilson returned to the dais at 8:43 p.m.

### IX. Consider and Possible Action

25. Approve Change Order No. 1 to GUERRA UNDERGROUND, LLC, Austin, Texas for the Tenorio Addition Wastewater System Rehabilitation Project Phase One B in an amount not to exceed \$32,853.00 for a total contract amount not to exceed \$476,793.00 for additional work and quantity adjustments. ~ *Leon Barba, P.E., City Engineer*  
Item No. 25 Attachments

Mayor Webster brought forward Item No. 25 for discussion.

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Arturo Guerra of Guerra Underground was called to speak. He stated that it was a great experience working in Kyle, and he hopes to work past these items. Mayor Pro Tem Fogley asked him to speak about the delay in the completion of the project. He stated that there was no geo-tech report provided with the packet, and the rock was much harder than anticipated. The result was that it took a long time to work through. He stated that they have a plat and they use Google maps, which there was some tree coverage that prohibited vision of the homes in the area. He stated that they had to remove a deck and reinstall it, and in other areas, homeowners had used the line as storage area for 20 years and they had to relocate items. Mr. Guerra said originally, there was a 50-foot segment with restricted hours, but during the project, it ended up being about 740 feet of restricted hours due to school traffic.

Council Member Arabie moved to approve Change Order No. 1 to Guerra Underground, LLC, Austin, Texas for the Tenorio Addition Wastewater System Rehabilitation Project Phase One B in an amount not to exceed \$32,853.00 for a total contract amount not to exceed \$476,793.00 for additional work and quantity adjustments. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

26. Approve Change Order No. 2 to GUERRA UNDERGROUND, LLC, Austin, Texas, for the Tenorio Addition Wastewater System Rehabilitation Project Phase One B in an amount of \$15,553.36 for a total contract amount not to exceed \$492,346.36 for additional labor and equipment caused by a restriction of work hours due to school related traffic and assessment of liquidated damages. ~ *Leon Barba, P.E., City Engineer*  
Item No. 26 Attachments

Mayor Webster brought forward Item No. 26 for discussion.

Council Member Arabie moved to approve Change Order No. 2 to Guerra Underground, LLC, Austin, Texas, for the Tenorio Addition Wastewater System Rehabilitation Project Phase One B in an amount of \$15,553.36 for a total contract amount not to exceed \$492,346.36 for additional labor and equipment caused by a restriction of work hours due to school related traffic and assessment of liquidated damages. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

19. (First Reading) An Ordinance of the City of Kyle, Texas, amending the adoption of the 2015 Edition of the International Fire Code; providing for the amendment of local amendments thereto; providing that this ordinance is cumulative of all ordinances; amending the City Ordinance and the Code of Ordinances. ~ *Kyle Taylor, Fire Chief*  
Item No. 19 Attachments

Mayor Webster brought forward Item No. 19 for discussion. Chief Taylor presented the item.

Council Member Arabie moved to approve an Ordinance of the City of Kyle, Texas, amending the adoption of the 2015 Edition of the International Fire Code; providing for the amendment of local amendments thereto; providing that this ordinance is cumulative of all ordinances; amending the City Ordinance and the Code of Ordinances. Mayor Pro Tem Fogley seconded the motion. All votes aye; motion carried 5-0.

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X. ADJOURN

Mayor Pro Tem Fogley moved to adjourn. Council Member Wilson seconded the motion. All votes aye; motion carried 5-0.

With no further business to discuss, the City Council adjourned at 9:04 p.m.

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R. Todd Webster, Mayor

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Attest: Jennifer A. Vetrano, City Secretary